

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
FEBRUARY 3, 2004
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:14 a.m.

Mayor Murphy announced that Local 127 raised almost \$17,000 to provide fire relief aid to ten City employees and their families who were victims of the cedar fires. Each family was given \$1,000 before Christmas, and the President of Local 127 presented them with checks for the balance.

The meeting was recessed by Mayor Murphy at 11:20 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:26 a.m. with all Council Members present. The meeting was recessed by Mayor Murphy at 11:27 a.m. to convene the Housing Authority. Mayor Murphy reconvened the regular meeting at 11:28 a.m. with all Council Members present. The meeting was recessed by Mayor Murphy at 11:57 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:08 p.m. with all Council Members present. The meeting was recessed at 3:03 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:17 p.m. with Council Member Peters and Council Member Zucchet not present. The meeting was recessed at 4:42 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:52 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 5:29 p.m. into Closed Session immediately following the regular meeting in the twelfth floor conference room to discuss anticipated and existing litigation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Abdelnour/Maland/Lane (pr/gs)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

(M) Mayor Murphy-present

(1) Council Member Peters-present

(2) Council Member Zucchet-present

(3) Council Member Atkins-present

(4) Council Member Lewis-present

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Henry Olivas regarding Balboa Park buildings and maintenance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:24 a.m. – 10:26 a.m.)

Comment by Carl De Maio regarding “San Diego Citizen’s Budget Project,” and wishing to submit a list of questions to the City Manager’s Office.

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:30 a.m.)

Comment by Noel Neudeck regarding “Fixed Wing Water Droppers” and the Cedar fire.

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:34 a.m.)

Comment by Pat Granger regarding site 653 at the corner of La Jolla Village Drive and Torrey Pines Road.

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

Comment by John Harder and Bishop Roy Dixon representing “San Diego Organizing Project” and “Housing Day.”

COUNCIL ACTION: (Time duration: 10:37 a.m.- 10:41 a.m.)

PUBLIC COMMENT-6:

Comment by Jarvis Ross regarding Rosecrans Street and Balboa Park.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:44 a.m.)

PUBLIC COMMENT-7:

Comment by Mick Rabin regarding Boy Scout camp issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:47 a.m.)

PUBLIC COMMENT-8:

Comment by Allyson Smith and James Harthine regarding pornography stores in District 3.

Council Member Atkins stated that the City Attorney and Code Enforcement has been very active regarding these issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:51 a.m.)

PUBLIC COMMENT-9:

Comment by Gregory Hedgley-Garber regarding undue influence within the community of Southeast San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. – 10:54 a.m.)

PUBLIC COMMENT-10:

Comment by Dorothy Brooks regarding feeling denied of her pursuit of happiness and employment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. – 10:58 a.m.)

PUBLIC COMMENT-11:

Comment by Juan Hernandez regarding his difficulty to survive in San Diego due to low wages.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:58 a.m. – 11:00 a.m.)

PUBLIC COMMENT-12:

Comment by Al Gasso regarding business violations on the corner of Park and University.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:00 a.m. – 11:03 a.m.)

PUBLIC COMMENT-13:

Comment by Tony Garcia regarding Pete Wilson statue and representing M.E.Ch.A.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:05 a.m.)

PUBLIC COMMENT-14:

Comment by Ian Trowbridge referring to an article in the San Diego Tribune regarding the Data Processing Corporation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. – 11:08 a.m.)

PUBLIC COMMENT-15:

Comment by Jill Galante regarding Pacific Beach and alcohol abuse.

Council Member Zucchet stated that they agree that the lack of alcohol policy, especially in Pacific Beach, is broken.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:08 a.m. – 11:12 a.m.)

PUBLIC COMMENT-16:

Comment by Jim Bell regarding City problems and solutions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:12 a.m. – 11:14 a.m.)

PUBLIC COMMENT-17:

Comment by Sky Anderson suggesting more policing in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:15 a.m. – 11:17 a.m.)

PUBLIC COMMENT-18:

Comment by Lillian Zheng regarding “Falun Gong” and the City of Yantai.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:17 a.m. – 11:20 a.m.)

COUNCIL COMMENT:

None.

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

Pursuant to the Brown Act, City Attorney Casey Gwinn made an announcement that in Executive Session today, the Mayor and Council voted unanimously to initiate litigation against A.D.A.P.T. Inc., related to collection of monies due the City of San Diego.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:34 a.m. – 11:35 a.m.)

NOTE: It is anticipated that the City Council will ask to continue this item to a date to be determined.

ITEM-330: Southgate Condominium Conversion.

Matter of the appeal by Arlen L. Shire of the decision by the Planning Commission in approving an application for a Tentative Map for a Condominium Conversion to convert 188 residential units to condominiums on a 12.9 acre site at 850 Beyer Way in the RM-1-1 Zone.

(See City Manager Report CMR-04-010. Otay Mesa-Nestor Community Plan Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution to deny the appeal and grant the Tentative Map:

(R-2004-) GRANTED APPEAL/DENIED MAP, ADOPTED AS
RESOLUTION R-298841

Adoption of a Resolution granting or denying the appeal and granting or denying Tentative Map No. 27671, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on November 13, 2003 voted 6-0 to approve; was opposition.

Ayes: Lettieri, Schultz, Brown, Chase, Ontai, Steel.
Not present: Garcia

The Otay Mesa-Nestor Community Planning Board has recommended approval of this project.

CITY MANAGER SUPPORTING INFORMATION:

The developed 12.9-acre site is located at 850 Beyer Way in the RM-1-1 Zone of the Otay Mesa-Nestor Community Plan. The surrounding area is developed with a variety of mixed uses including low density detached single family dwellings to the west and south, commercial uses comprised of retail establishments to the north, mixed commercial establishments, multi-family attached dwelling units and Howard Pence Elementary School to the east. The Otay Mesa-Nestor Community Plan designates the site for residential uses at a density of low to medium (10-15du/ac).

The site is currently developed with an apartment complex consisting of 12 separate buildings in which 94 of the units are one-bedroom apartments, 93 are two-bedroom apartments, and one is a three-bedroom apartment. These existing buildings were designed and constructed for condominiums in 1978 and were in conformance with the development codes at that time; The Subdivisions Board on November 11, 1981, approved Tentative Map 01-300-01 for 188 condominiums. However, because of the high interest rates and poor market conditions for condominiums in the early 1980's the owner decided to rent out the units on a monthly basis and postponed finalizing the Tentative Map. Tentative Map 01-300-01 expired on November 11, 1984.

The project proposes to convert the existing 188 apartments to 188 condominiums. The project is consistent with the residential land use designation and low to medium density in effect for the site. There are no zoning or non-conforming land use issues, or code violations associated with the property, and the existing development complies fully with the current requirements of the MR-1-1 Zone.

The project consists of one and two-bedroom dwelling units and one three-bedroom unit each having one enclosed and one uncovered parking space and balcony. There is an existing pool and green belt area with grass and an array of ornamental trees. The owner of the development plans on gradually phasing the apartments to condominiums in six phases over a period of 24 months in order to minimize tenant displacement. In addition, the owner plans on completely refurbishing each unit to include, but not limited to, the following improvements: stacked, interior washer/dryer hook-ups, all new kitchens and baths, natural maple wood cabinetry, all new kitchen appliances, plumbing fixtures, lighting fixtures, heating, flooring and carpet. The acoustical ceilings will be removed and each unit will be painted. The exterior trim will also be painted and the landscaping upgraded. According to the owner, these refurbishing costs will exceed \$5.0 million dollars.

FISCAL IMPACT:

All costs associated with the processing of this application are paid for by the applicant.

Ewell/Christiansen/WJZ

NOTE:

This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15308.

FILE LOCATION: LUP-Southgate Condominium Conversion 2/3/04 (65)

COUNCIL ACTION: (Time duration: 2:27 p.m. – 3:32 p.m.)

Testimony in opposition by Mario Lopez, Byron Peck, Catherine Rodman, Valerie Shields, Arlen Shire, and Daniel Coffey.

Testimony in favor by Chris Morrow, Ralph Bwy, and George Luna.

MOTION BY INZUNZA TO ADOPT THE RESOLUTION TO GRANT THE APPEAL AND DENY THE TENTATIVE MAP NO. 27671. Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-331: Status Report on the Inclusionary Housing Ordinance and the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

(See City Manager Report CMR-04-019.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-770) ADOPTED WITH DIRECTION AS RESOLUTION
R-298842

Accepting the City Manager's Report on the status of implementation of the Inclusionary Housing Regulations and the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. – 2:27 p.m.)

MOTION BY ATKINS TO ADOPT THE RESOLUTION WITH DIRECTION TO STAFF TO: 1) PREPARE AN ANALYSIS TRACKING THE SUCCESS OF EACH PROGRAM; 2) ADDRESS ANY OBSTACLES AS IT RELATES TO THE EXPEDITE PROGRAM; AND 3) REPORT BACK TO THE LAND USE AND HOUSING COMMISSION IN SIX MONTHS. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-332: Two actions related to Proposed Changes to Condominium Conversion Regulations.

(See City Manager Report CMR-03-186; Planning Commission Report P-03-369 (this report was not available at Committee); memorandum from S. Gail Goldberg dated 9/12/2003; letters from Craig K. Beam dated 9/2/2003 and 9/17/2003; Peter Valleau's report; and Market Pointe's information.)

TODAY'S ACTIONS ARE:

Introduce the following ordinances:

Subitem-A: (O-2004-58 Cor. Copy)	INTRODUCED WITH DIRECTION, TO BE ADOPTED ON MONDAY, MARCH 8, 2004
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Introduction of an ordinance amending Chapter 12, Article 5, Division 4, of the San Diego Municipal Code by amending Sections 125.0430, 125.0431, and 125.0444, amending Chapter 12, Article 5, Division 6, by amending Section 125.0640, and amending Chapter 14, Article 4, by adding Division 5 Titled "Condominium Conversion Regulations," and by adding Sections 144.0501, 144.0502, 144.0503, and 144.0504, all relating to Condominium Conversions.

Subitem-B: (O-2004-94 Cor. Copy)	INTRODUCED WITH DIRECTION, TO BE ADOPTED ON MONDAY, MARCH 8, 2004
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Introduction of an ordinance amending Chapter 14, Article 2, Division 13, of the San Diego Municipal Code by amending Sections 142.1303, 142.1306, and 142.1310, all relating to Inclusionary Affordable Housing Regulations.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 9/17/2003, LU&H voted 4 to 0 to adopt the City Manager's recommendations with one amendment to recommendation number 2. The motion directed staff to:

1. Prepare an ordinance to require that when the rental vacancy rate is below 7%, condominium conversion applicants provide a relocation/down payment assistance payment of three months current rent to residents of units being converted who earn less than the Area Median Income (AMI).
2. Direct preparation of an amendment to the Inclusionary Housing Ordinance to apply the City's recently adopted inclusionary housing provisions to condominium conversions, requiring applicants for conversions to either offer 10% of the converted units at a price affordable to residents earning 100% or less of AMI, provide the same number of affordable units at an off-site location or pay an in lieu fee. Converted units regardless of size being sold for less than 150% of AMI would be exempt from any inclusionary requirement.
3. Assure units undergoing conversion meet all applicable local and State building and zoning regulations. Chair Peters stated, for the record, his reservations with regards to recommendation number 2, noting while he favored moving the item forward as part of the motion, he may not support the item at City Council.

(Councilmembers Peters, Zucchet, Atkins, and Frye voted yea. Councilmember Lewis not present.)

SUPPORTING INFORMATION:

The actions before you are proposed revisions to the City's condominium conversion regulations and inclusionary housing regulations. These actions relate to specific recommendations from the final report of the Affordable Housing Task Force (AHTF). The AHTF recommendations were as follows: 7bi: Apply 10% inclusionary housing requirement to condo conversions; 7bii: Require relocation assistance for seniors, disabled, and low-income households; 7biii: Require that converted properties meet building and zoning requirements in effect at the time of construction, plumbing, mechanical, electrical systems be in good working order, roof systems be inspected by a licensed contractor or home inspector, wall and roof have insulation or meet Title 24 at the time of construction; 7biv: Require down payment assistance for seniors, disabled, and low-income households.

Action item A relates to recommendations 7bii and 7biv from the AHTF report and action item B relates to recommendation 7bi from the AHTF report. Recommendation 7biii from the AHTF report is addressed in the Planning commission report but does not require any ordinance revisions. The recommended actions are refinements to the Affordable Housing Task Force Recommendations and have been reviewed by the Land Use and Housing Committee, Community Planners Committee, Housing Commission and Planning Commission. Please see the attached Planning Commission Report No. P-03-369 for a full description of the proposed revisions.

On December 11, 2003, the Planning Commission voted 6-0 to recommend City Council adoption of the revisions to the condominium conversion regulations and inclusionary housing regulations. In addition, the Commission made the following suggestions:

- Any and all available financing methods should be explained and made available to the people living in units undergoing conversion to help them to be able to afford to purchase these units.
- Council should be urged to consider a future requirement that inclusionary housing be provided on site rather than continuing to allow the inclusionary requirement to be fulfilled by payment of an in lieu fee.
- The condominium conversion situation should continue to be closely monitored and annual reports should be prepared by staff on this issue.

Manager's Recommendation:

1. Recommend approval of a requirement that when the rental vacancy rate is below seven percent, property owners who seek approval to convert rental housing units to for-sale condominium units be required to provide relocation/down payment assistance equal to three months current rent to existing residents who earn less than the Area Median Income (AMI).
2. Recommend approval of an amendment to the Inclusionary Housing Ordinance to apply the inclusionary requirement to condominium conversions that will sell at a price affordable to families earning 150% or more of AMI.
3. Assure that housing units being converted meet all applicable local and State building and zoning standards.

FISCAL IMPACT:

Administration would be done by Housing Commission. Fees to cover administrative costs are proposed.

Ewell/Goldberg/BL

FILE LOCATION: SUBITEMS A & B: NONE

COUNCIL ACTION: (Time duration: 3:33 p.m. – 5:28 p.m.)

Motion by Peters requiring tenants to live in the apartment for at least six months to qualify for the relocation assistance. Second by Mayor Murphy. Failed. Yeas-1, 5, 7, M. Nays-2, 3, 4, 6, 8.

MOTION BY ATKINS TO INTRODUCE THE ORDINANCE IN SUBITEM A AS MODIFIED BY INTERLINEATION AND READ INTO THE RECORD BY CITY ATTORNEY, PRESCILLA DUGARD: 1) ON PAGE 2, SECTION 125.0430, DECISION TO APPLY FOR A TENTATIVE MAP, DELETE SUBSECTION B; 2) ACCEPT THE CITY MANAGER'S RECOMMENDATION REQUIRING THAT WHEN THE RENTAL VACANCY RATE FALLS BELOW SEVEN PERCENT CONDOMINIUM CONVERSION APPLICANTS MUST PROVIDE RELOCATION OR DOWN PAYMENT ASSISTANCE EQUAL TO THREE MONTHS CURRENT RENT TO RESIDENTS OF UNITS BEING CONVERTED WHO EARN LESS THAN THE 100 PERCENT AREA MEDIAN INCOME; 3) DIRECT STAFF TO DEVELOP A SYSTEM ALLOWING SELF-CERTIFICATION TO APPLICANTS OF UNITS QUALIFYING FOR THE 150 PERCENT AREA MEDIAN INCOME EXEMPTION AND PROVIDE MONTHLY PUBLISHINGS OF AREA MEDIAN INCOMES AT 150 PERCENT FOR DIFFERENT FAMILY SIZES THAT COULD BE UTILIZED AT THE TIME A PURCHASE AGREEMENT IS ENTERED INTO AND BRING BACK A PROPOSAL TO CITY COUNCIL AT THE TIME OF THE ORDINANCE'S SECOND READING; AND 4) DIRECT THE CITY MANAGER TO COORDINATE THE EFFORTS OF AGENCIES TO SPECIFICALLY DESIGN AN OUTREACH PROGRAM FOR RESIDENTS IMPACTED BY CONDOMINIUM CONVERSION AND PRESENT A PROPOSAL BEFORE THE LAND USE AND HOUSING COMMITTEE. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-yea.

MOTION BY ATKINS TO INTRODUCE THE ORDINANCE IN SUBITEM B ACCEPTING THE CITY MANAGER'S RECOMMENDATION APPLYING THE INCLUSIONARY REQUIREMENTS TO CONDOMINIUM CONVERSIONS THAT SELL FOR PRICES AFFORDABLE TO HOUSEHOLDS EARNING 150 PERCENT OR MORE OF AREA MEDIAN INCOME. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

MOTION BY ATKINS TO REAFFIRM THE CITY'S COMMITMENT TO ENSURE THAT CONVERTED UNITS MEET ALL APPLICABLE LOCAL AND STATE BUILDING ZONING CODES. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY ATKINS TO DIRECT THE CLERK TO PUBLISH A NOTICE OF THE ORDINANCE SO THAT PROJECTS DEEMED COMPLETE BETWEEN NOW AND THE DATE OF PUBLICATION AND THE FINAL EFFECTIVE DATE WILL HAVE THE NEW REGULATIONS APPLIED TO THEM. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S500: Update on Redevelopment Agency's Affordable Housing Program (NOFA).

(See City Manager Report CMR-04-025.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-822) ADOPTED AS RESOLUTION R-298840

Accepting the Redevelopment Agency's Affordable Housing Program status report.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:35 a.m. – 11:57 a.m.)

MOTION BY ATKINS TO ADOPT THE RESOLUTION AND TO ACCEPT THE REPORT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S501: APPOINTED

In the matter of appointing an acting City Auditor & Comptroller until such time as a permanent City Auditor & Comptroller is appointed by the City Council.

NOTE: The City Auditor & Comptroller, Ed Ryan, is retiring on February 13, 2004, after serving faithfully and honorably in that position for 21 years. Therefore it is necessary to appoint an acting City Auditor & Comptroller until such time as a permanent City Auditor & Comptroller is appointed by the City Council.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:29 a.m. – 11:34 a.m.)

MOTION BY FRYE TO APPOINT TERRI WEBSTER AS THE INTERIM AUDITOR AND COMPTROLLER. TO REQUEST THAT A RECRUITMENT PROCESS BEGIN, AND ASK THAT THE MAYOR APPOINT THREE COUNCIL MEMBERS TO ACT AS A SELECT COMMITTEE , AND BRING THAT BACK TO COUNCIL NEXT TUESDAY, FEBRUARY 10, 2004. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:29 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:29 p.m.)